

STATE OF MICHIGAN
COURT OF APPEALS

In Re Estate of JOSEPH C. HOOPER, SR.,
Deceased, and In Re Estate of GERTRUDE
HOOPER, Deceased.

KEY BANK MICHIGAN,

Petitioner-Appellee,

v

JOSEPH C. HOOPER, JR.,

Respondent-Appellant,

and

BETSY M. HOOPER, JOSEPH HOOPER, III,
and MARTHA J. JOHNSON,

Not Participating.

Before: Bandstra, C.J., and Cavanagh and Zahra, JJ.

PER CURIAM.

Respondent appeals as of right from two orders issued by the probate court on August 22, 1997. The first order denied respondent's motion to adjourn the August 22, 1997, hearing. The second order approved annual accountings for the Gertrude Hooper trust for the years 1994, 1995, and 1996. The order further provided that petitioner would no longer have to seek court approval of future annual accountings and set forth procedures to be followed in the event that respondent failed to cash his trust income checks. We affirm both orders.

First, respondent claims that the trial court erred in denying his motion to adjourn. However, respondent has abandoned this issue because he has failed to sufficiently brief this issue or cite any

authority in support of his position. *Great Lakes Division of Nat'l Steel Corp v City of Ecorse*, 227 Mich App 379, 422; 576 NW2d 667 (1998). In any case, we find that the probate court did not abuse its discretion when it denied respondent's request for an adjournment. An adjournment must be based on good cause and a court, in its discretion, may grant an adjournment to promote the cause of justice. *Zerillo v Dyksterhouse*, 191 Mich App 228, 230; 477 NW2d 117 (1991). Respondent did not present good cause to secure an adjournment.

Second, we find that the trial court did not err in approving the 1994, 1995, and 1996 accountings; allowing petitioner to file future accountings without court approval; and granting the other relief requested by petitioner. Contrary to respondent's contentions, petitioner did not have a duty to seek court approval with regard to the trust's annual accountings. MCL 700.805(2); MSA 27.5805(2) provides that inter vivos trusts are not subject to continuing court supervision and should be administered expeditiously pursuant to the terms of the trust. The terms of the trust at issue only requires annual accountings to the beneficiaries; it does not require court approval of those accountings. Petitioner's decision to cease seeking court approval violates neither Michigan law nor the terms of the trust.¹

We acknowledge that, under the terms of MCL 700.805(2); MSA 27.5805(2), an interested party may invoke the jurisdiction of the probate court to challenge actions of a trustee. However, in order for the probate court to intervene, there must be a showing that the trustee has violated its duties. *In re Butterfield Estate*, 418 Mich 241, 259; 341 NW2d 453 (1983). Here, respondent challenged the accountings and petitioner's decision to stop seeking court approval of those accountings. He did not, however, demonstrate that petitioner violated any of its fiduciary duties or otherwise engaged in fraud in the administration of the estate. Respondent completely failed to make any showing that the accountings were inaccurate or deficient. The trial court's decision to approve the accountings for 1994, 1995, and 1996 is therefore not clearly erroneous.

Respondent also argues that he was entitled to discovery with regard to the documents upon which the accountings were based, including income tax documents. He implies that if he were allowed to review these documents, he might be able to bolster his objections and show improprieties in the administration of the estate. However, respondent fails to cite any applicable authority to support his position that he was entitled to the onerous discovery that he requested. MCL 700.814; MSA 27.5814 provides only that the trustee shall keep the beneficiaries reasonably apprised of the trust and its administration and provide an annual statement of accounts. There is no indication in the record that petitioner did not meet its legal duties in this regard. Respondent's reliance on MCR 5.707 to support his contention that he was entitled to view the proofs of income and disbursements used when compiling the annual accountings is misplaced. That rule does not pertain to the duties of trustees with regard to trust estates, but only to personal representatives of a decedent's estate. Because respondent had no legal right to obtain the discovery as a matter of course, and because respondent failed to demonstrate that the probate court should intervene in or investigate the Gertrude Hooper trust, the trial court properly entered its August 22, 1997, order, which implicitly denied respondent the right to discovery.

Finally, respondent challenges the amount of attorney fees paid by the trust. His challenges with regard to attorney fees paid prior to 1994 are not properly before this Court, as they were approved by

the probate court when it approved the prior accountings. Any appeal with regard to those fees should have been taken pursuant to orders approving the respective accountings. The attorney fees paid in 1994, 1995, and 1996 were minimal and reasonable, as found by the trial court. In making our ruling, we note that, contrary to respondent's position, the probate court was not required to sua sponte make a determination of whether attorney fees were reasonable pursuant to MCR 8.303.

Respondent raises other issues, which either are not preserved or would require this Court to render advisory opinions. We decline to address those issues.

Affirmed.

/s/ Richard A. Bandstra

/s/ Mark J. Cavanagh

/s/ Brian K. Zahra

¹ As a courtesy, petitioner notified the beneficiaries that it would no longer seek court approval of the accountings. We are mindful of respondent's claim that the notice provided was improper because petitioner relied on a court rule that applies to testamentary trusts and not inter vivos trusts. However, because petitioner did not have a duty to provide notice in the first instance, we do not find that its notice, which cited to an inapplicable court rule, has any bearing on the issues that we are called upon to resolve.